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Dean Tan

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EXAMINER

WOOD, WILLIAM H

KELLY K KORDZIK
WINSTEAD SECHREST & MINICK PC
P O BOX 50784
DALLAS, TX 75201

ART UNIT

PAPER NUMBER

2124

DATE MAILED: 02/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/872,234

Applicant(s)

TAN ET AL.

Examiner

William H. Wood

Art Unit

2124

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21,23-43 and 45-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21,23-43 and 45-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11292004</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-21, 23-43 and 45-48 are pending and have been examined.

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 29 November 2004 was considered by the examiner. Also, considered are IDS' 12 November 2004, 18 August 2004 and 28 October 2004.

Oath/Declaration

2. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because: incorrect listing of applications claimed for priority (see page 2).

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 45 and 46 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Numerous occurrences of "application" where "appliance" should be used (claim 45, lines 4 and 6; claim 46, lines 6 and 8).

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

6. Claims 45 and 46 are rejected under 35 U.S.C. 102(a) as being anticipated by **Aronberg et al.** (USPN 5,933,647).

Claim 45

Aronberg disclosed a machine-implemented method, comprising the steps of: receiving, at an appliance, a document that includes elements that specify (a) steps for installing an application on the appliance (*column 2, lines 52-54; column 5, lines 30-35*), and (b) customized parameter values to use when installing the application on the [appliance] (*column 2, lines 52-54*); and automatically translating the elements to commands, which are executed by the appliance to perform said steps to install the application on the [appliance] using the customized parameter values (*column 4, lines 35-38; installation commands to be performed translated at least from the network protocol used to get them to the target*).

Claim 46

The limitations of claim 46 are substantially the same as for claim 45 and as such are rejected in the same manner.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-21 and 23-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Aronberg** et al. (USPN 5,933,647) in view of **Bigus** et al. (USPN 6,718,358) in further view of **Callaway** et al. (USPN 6,446,071).

Claim 1

Aronberg disclosed a method for automatically installing an application on a device on a network, the method comprising the steps of:

sending, from the device to a server, a request that (a) requests a application from the server,

downloading, from the server, an initial customized value for a configuration parameter, wherein the initial customized value was determined by the server (*column 2, lines 1-12, and lines 54-56; column 5, lines 44-48; column 9, lines 28-32; figure 4, variables to set; figure 7, variables set, files per directory*);

downloading the database application to the device (*column 2, lines 59-61*); and installing the database application on the device with the initial customized value for the configuration parameter (*figures 4 and 7; column 9, lines 28-32*).

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Aronberg did not explicitly state a database application and sending from the device resource information available on the device for customization of parameters. **Bigus** demonstrated that it was known at the time of invention to install database applications (column 1, lines 14-27 and lines 62-64) and to gather resource information from target devices (column 1, lines 38-41; and column 4, lines 1-5). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the distributed installation system of **Aronberg** with database installation and parameter tuning including receiving as needed resource information available for customizing parameters as found in **Bigus'** teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to 1) provide databases along with any other software to a system as needed and 2) provide the most efficient functioning of any installed software (column 1, lines 38-41).

Aronberg did not explicitly state *sending to a server data indicating device resources*. **Callaway** demonstrated that it was known at the time of invention to seek centralization of data and software (column 3, lines 2-4). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the installation system of **Aronberg** with centralized software for evaluating device resources as found in **Callaway's** teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to centralize software in an effort to reduce out-of-date or hard-to-update agents from being dispersed throughout a network, it is easier to update one location.

Claim 2

Aronberg and **Callaway** did not explicitly state the method of Claim 1 further comprising the step of monitoring logs of actual use of the device resources. **Bigus** demonstrated that it was known at the time of invention to tune databases via acquired metrics (column 1, lines 38-64; column 2, lines 53-59). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the installation system of **Aronberg** with software tuning as found in **Bigus**' teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to improve performance of distributed/network systems (**Bigus**: column 1, lines 19-27 and lines 38-49).

Claim 3

Aronberg, **Bigus** and **Callaway** disclosed the method of claim 2, further comprising, after the database application has been installed, tuning the value of the configuration parameter based on logs of actual use of the device resources (*see above claim 3*).

Claim 4

Aronberg, **Bigus** and **Callaway** did not explicitly state the method of claim 1, wherein:

- ♦ the method further comprises, after requesting the database application from the server, receiving at the device a network address of a source for the database application; and

- ♦ the step of downloading the database application comprises downloading the database application to the device from the source.

Official Notice is taken that it was known at the time of invention to make use of distributed servers and downloading redirection. It would have been obvious to one of ordinary skill in the art at the time of invention to implement the installation system of **Aronberg, Bigus and Callaway** with receiving an alternate server to download from. This implementation would have been obvious because one of ordinary skill in the art would be motivated to make use of standard network environments in order to increase usefulness and applicability of the installation system (for example: download straight from the vendor, which is most likely to be most accurate and up-to-date).

Claim 5

Aronberg, Bigus and Callaway disclosed the method of claim 4 wherein the source is a second server that is distinct from the server from which the database application is requested (*see above claim 4, for example downloading from vender*).

Claim 6

Aronberg, Bigus and Callaway disclosed the method of claim 1, wherein the device is a database appliance having database software and non-database software tailored to the needs of the database software (**Bigus**: *disclosed database software as shown above*; **Aronberg**: *showed at least the agent software responsive to the database for*

installation; and **Bigus**: at least the tuning software responsive to the database software).

Claim 7

Aronberg, Bigus and Callaway disclosed the method of claim 1, wherein:

- ♦ the server is a community server used to install the database application on a plurality of devices (**Aronberg**: figure 1); and
- ♦ the community server sends to each device of said plurality of devices initial customized values for the configuration parameter based on the resources on said each device (**Aronberg**: figure 1; column 4, lines 54-56).

Claim 8

Aronberg, Bigus and Callaway disclosed the method of claim 4, wherein the source is a community server used to install the database application on a plurality of devices and the network is the Internet (**Aronberg**: figure 1; and above claim 4 vnder example; and **Bigus**: column 2, line 45).

Claim 9

Aronberg, Bigus and Callaway did not explicitly state the method of claim 1, wherein the server is a platform at an Internet database service provider (**Bigus**: column 2, line 45; and **Callaway**: column 4, line 33).

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Claim 10

Aronberg, Bigus and Callaway disclosed the method of claim 4, wherein the source is a platform at an Internet database service provider (*see above claim 4, vender example*).

Claim 11

Aronberg, Bigus and Callaway disclosed the method of claim 1, wherein the data indicating device resources includes data indicating at least one of a consumable resource and an application already installed (**Aronberg:** *column 5, lines 44-48; column 9, lines 28-32*).

Claim 12

Aronberg, Bigus and Callaway disclosed the method of claim 11, wherein the data indicating the consumable resource includes data indicating at least one of storage space, number of licensed users, maximum processor usage rate, and maximum transaction rate (**Aronberg:** *column 5, lines 44-48; column 9, lines 28-32*).

Claim 13

Aronberg, Bigus and Callaway disclosed the method of claim 1, wherein:

- ♦ the device is a database appliance having database software and non-database software tailored to the needs of the database software (**Bigus:** *disclosed database software as shown above; Aronberg:* *showed at least*

*the agent software responsive to the database for installation; and **Bigus**: at least the tuning software responsive to the database software); and*

- ♦ the data indicating device resources includes a type of the database appliance (**Aronberg**: column 5, lines 44-48; **Bigus**: column 1, lines 62-64).

Claim 14

Aronberg, **Bigus** and **Callaway** disclosed the method of claim 1, wherein the configuration parameter is at least one of a size for a shared global area of memory for the application, a size for a private cache memory, a size for a tablespace, and a size of a data block (**Aronberg**: column 5, lines 44-48; column 9, lines 28-32).

Claim 15

Aronberg, **Bigus** and **Callaway** disclosed the method of claim 3, wherein the logs of actual use include data indicating at least one of number of disk reads, number of disk writes (**Aronberg**: column 2, lines 1-8).

Claim 16

Aronberg, **Bigus** and **Callaway** did not explicitly state the method of claim 1, further comprising:

- ♦ sending to the server a request for selectable database applications, and
- ♦ receiving from the server data indicating a set of one or more selectable database applications.

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Official Notice is taken that it was known at the time of invention to select via a user an application for installation. It would have been obvious to one of ordinary skill in the art at the time of invention to implement the installation system of **Aronberg, Bigus and Callaway** with user selecting software to install. This implementation would have been obvious because one of ordinary skill in the art would be motivated to a user further control over their system in order to make adjustments specific to their individual needs.

Claim 17

Aronberg, Bigus and Callaway did not explicitly state the method of claim 1, further comprising:

- ♦ sending to a user data indicating a set of one or more selectable database applications; and
- ♦ receiving input from the user indicating the database application selected.

Official Notice is taken that it was known at the time of invention to select via a user an application for installation. It would have been obvious to one of ordinary skill in the art at the time of invention to implement the installation system of **Aronberg, Bigus and Callaway** with user selecting software to install. This implementation would have been obvious because one of ordinary skill in the art would be motivated to a user further control over their system in order to make adjustments specific to their individual needs.

Claim 18

Aronberg, Bigus and Callaway disclosed the method of claim 17, wherein:

- ♦ the network is the Internet (**Bigus**: column 2, line 45); and
- ♦ the data indicating a set of one or more selectable database applications are sent from an internet database service provider system which manages the device (**Aronberg**: figure 1).

Claim 19

Aronberg, Bigus and Callaway disclosed the method of claim 1, wherein the database application is configured to interact with a database server device distinct from the device (**Bigus**: column 1, lines 62-64 and column 2, line 45).

Claim 20

Aronberg, Bigus and Callaway disclosed the method of claim 19, wherein the device and the database server device are managed by an internet database service provider system (**Bigus**: column 2, line 45).

Claim 21

The limitations of method claim 21 are substantially similar to the limitations of method claim 1 and as such are rejected in the same manner.

Claims 23-43

The limitations of computer-readable medium claims 23-43 are substantially similar to the limitations of method claims 1-21 and as such are rejected in the same manner.

Claims 47 and 48

Aronberg, Bigus and Callaway disclosed the method or machine-readable medium, wherein the application is a database application (*see claim 1*).

Response to Arguments

9. Applicant's arguments with respect to claims 1-21, 23-43 and 45-48 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Correspondence Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Wood whose telephone number is (571)-272-3736. The examiner can normally be reached 9:00am - 5:30pm Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on (571)-272-3719. The fax phone numbers for the organization where this application or proceeding is assigned are (703)872-9306 for regular communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.



William H. Wood
February 4, 2005



KAKALI CHAKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100